

REMARKS

Applicants respectfully submit this Amendment for entry and consideration in the above-identified case.

This Amendment is in response to the Office Action dated March 4, 2008.

In the Office Action, Claims 1, 3-9, 11, 16-18, 20-22 and 25 were objected to as comprising various informalities.

Further in the Office Action, Claims 14-17 were rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite.

Further in the Office Action, Claim 25 was rejected under 35 U.S.C. 101 as being directed to allegedly unpatentable subject matter.

Further in the Office Action, Claims 1-12, 18-23 and 25 were rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Abu El Ata (US Patent No. 6, 990,437) ("El Ata"). Further, Claims 13-16 and 24 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Abu El Ata in view of Covino et al. (US 2006/0203732) ("Covino").

In this response, Applicants herein cancel Claims 1-10 which have been re-written in independent form as new independent system Claim 25. Similarly, Claims 18-24 have been canceled and re-written in independent form as new independent method Claim 26. Lastly, Claim 25 has been canceled and is now new independent article of manufacture Claim 28. Care has been taken to ensure no new matter is being entered by the present amendments. Full support for these limitations are found in the Claims as originally filed, and the

discussion starting from paragraph [0030] of the originally filed specification that describes the BOPs modeling software in further view of Fig. 4 of the present application.

Moreover, applicants, in the new Claims 26-28, have addressed the Examiner's objections indicated, and care has been taken to ensure new independent Claims 26-28 include corrections as indicated by the Examiner's objections. The Examiner is respectfully requested to remove the objections.

Moreover, applicants, in the new Claims 26-28, have addressed the Examiner's rejections noted in the 35 U.S.C. 112, second paragraph rejection and the Examiner is respectfully requested to withdraw this rejection.

Moreover, the new independent Claim 28, which tracks canceled Claim 25, has been drafted as an article of manufacture, and thus, respectfully is considered statutory subject matter. The Examiner is respectfully requested to withdraw the rejection of Claim 28 under 35 U.S.C. 101.

The submission of new Claims 26 – 28 render the present invention patentably distinct from El Ata whether taken alone or in combination with Covino. None of these references teach or suggest the limitations of Claims 26, 27 and 28 directed to the BOPs Business Modeling Software that presents a way for business process modeling that presents the operational view of a business that focuses on the artifacts that the business operates on and the business elements that impact the lifecycle of those artifacts.

More particularly, as a first distinction, El Ata whether taken alone or in combination with Covino, does not teach nor suggest business operations modeling that further

implements a business level modeling language for formally representing said business operations according to a schema, the schema describing one or more of:

- an information sub-model describing artifacts and business events that business tasks exchange including task contexts that hold temporary information needed by a task, business predicates, for modeling constraints for, and relationships between, information sub-model constituents,

- a Resource sub-model describing human, automated, or external actors, and their capabilities defined as aggregations of capabilities to perform tasks, and,

- a Functional sub-model describing actions in the form of business processes, business tasks and artifact repositories that store the artifacts that the business operates on and establishes a coherence model describing those tasks which operate upon one or more artifacts using one or more kinds of resources, and how those tasks are interconnected through the exchange of artifacts,

Rather, Applicants respectfully submit that El Ata is directed to design of an information system, and while describing a method for designing, implements a model that only works in conjunction with an optimizer that generates implementations of the information system architecture described and design alternatives to be evaluated.

Covino, while indicated by the Examiner as combinable with El Ata, is directed to a system and method for managing a specific business, i.e., a telecommunications network or service provider, and is of a completely different architecture and mode of operations as it is concerned with telecommunication networks/devices and systems, and largely supports distributed management functions implemented by agents (actors) which are “independent and autonomous processes” (See Covino at para. [0045]) in the telecom network. Thus,

Covino has nothing to do with implementing BOpS type business operations modeling software as described at paragraphs [0030] et seq. and shown in Fig. 4 of the present application and thus, is not combinable with modeling software presented by El Ata. Covino rather is directed to supporting FCAPS (Fault, Configuration, Accounting, Performance and Security) considerations conventionally provided in teleco management functionalities. Respectfully, applicants see no reason how the combination as suggested by the Examiner, particularly, the teachings of paragraphs [0139]-[0144] of Covino which attempt to describe example scenario for handling a data model change for equipment, is combinable with the El Ata disclosure of modeling business process as Covino's business objectives (fault, security, accounting) are not even addressed by El Ata. Even though Covino speaks to XML type code this is common representation of a CDM (common data model) implemented by Covino, in the examples given.

El Ata, additionally, does not teach nor suggest business operations modeling that further implements a business level modeling language for formally representing said business operations according to a schema, the schema describing one or more of:

- an information sub-model describing artifacts and business events that business tasks exchange including task contexts that hold temporary information needed by a task, business predicates, for modeling constraints for, and relationships between, information sub-model constituents,

- a Resource sub-model describing human, automated, or external actors, and their capabilities defined as aggregations of capabilities to perform tasks, and,

- a Functional sub-model describing actions in the form of business processes, business tasks and artifact repositories that store the artifacts that the business

operates on and establishes a coherence model describing those tasks which operate upon one or more artifacts using one or more kinds of resources, and how those tasks are interconnected through the exchange of artifacts.

El Ata, at best, while showing an iterative process, is iterative only with respect to its iteratively “remodeling” and evaluating the design alternatives through the above-mentioned optimizer. This, it is respectfully submitted, does not rise to the level of the claimed system and method steps of Claims 26 and 27 that are directed to transforming said key performance indicators into IT probes in the IT executable solution model, said probes enabling real-time monitoring and reporting of business process performance as measured by said key performance indicators defined in the operation model. El Ata does not implement probes and, it appears is not suggestive of real-time monitoring and reporting of the business process performance. In fact, in El Ata, the iteration is part of the design process with no real-time monitoring via use of IT probes.

Thus, the Examiner is respectfully requested to consider the rejections in light of new independent Claims 26-28 and to respectfully withdraw the rejections under both 35 U.S.C. §102(e) and 103(a).

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance be issued. If the Examiner believes that a telephone conference with the Applicants’ attorneys would be advantageous to the disposition of this

case, the Examiner is requested to telephone the undersigned, Applicants' attorney, at the following telephone number: (516) 742-4343.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Steven Fischman', with a long horizontal flourish extending to the right.

Steven Fischman

Registration No.: 34,594

Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343

SF: gc